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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,216	11/17/2000	James M. Salerno		6808

7590 05/20/2002

Irving Keschner  
21515 Hawthorne Boulevard Suite 1150  
Torrance, CA 90503

EXAMINER

COLLINS, DOLORES R

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 05/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/715,216

Applicant(s)

SALERNO, JAMES M.

Examiner

Dolores R. Collins

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

Examiner acknowledges response by applicant's representative received 2/28/02. Examiner further acknowledges the corrections/clarifications made to address the issues of the first action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 12 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sui in view of Seibert.

Sui discloses a Disposable Table Cloth.

Regarding claims 1, 4, 12 & 13

Sui teaches:

- a fabric table cloth having a predetermined shape and size with a fastening member secured to the bottom surface of the border/tab (see figure 1);
  - a border which extends continuously around the circumference of the table cloth (see figures 1-5);
  - a tablecloth with flaps (see figures 1-5)
- and
- a tablecloth with Velcro Members (see figure 1A reference character "21")

Although Sui teaches a tablecloth with a border, he does not explicitly teach that his tablecloth has a border portion that is continuous. It would have been an obvious matter of design choice to make the tablecloth with a border of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results.

The patent to Seibert discloses a Gaming Table Cloth.

Seibert is used to show that the method of manufacture of tablecloths would determine the texture and intricacies of such. This detail or lack of would present little or no difficulty in the art. Stretchable materials are well known.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable  
Rodebaugh et al in view of Sui and Schumann.

Regarding claims 5-7

Rodebaugh et al. discloses a Cover For Outdoor Table And Benches.

Rodebaugh teaches:

- a tablecloth with loops (a fastening member) attached to it (see figure 19 and col. 3, lines 5-8).

The patent to Sui discloses a Disposable Table Cloth, which utilizes a Velcro system.

The patent to Schumann discloses a Holding Device. His holding device teaches a hook body that has access to a grip tab/loop (see abstract and figure 1).

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus satisfying the claimed structural limitations.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodebaugh et al. in view Sui, Schumann (404) and Seibert.

Regarding claims 8-11

Rodebaugh et al. discloses a Cover For Outdoor Table And Benches.

Rodebaugh teaches:

- a tablecloth with loops (a fastening member) attached to it (see figure 19 and col. 3, lines 5-8).

The patent to Sui discloses a Disposable Table Cloth, which utilizes a Velcro system. Sui teaches:

- a fabric table cloth having a predetermined shape and size with a fastening member secured to the bottom surface of the border/tab (see figure 1);
  - a border which extends continuously around the circumference of the table cloth (see figures 1-5);
  - a table cloth with flaps (see figures 1-5)
- and
- a tablecloth with Velcro Members (see figure 1A reference character "21")

Although Sui teaches a tablecloth with a border, he does not explicitly teach that his tablecloth has a border portion that is continuous. It would have been an obvious matter of design choice to make the tablecloth with a border of whatever form or shape

was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results.

The patent to Schumann discloses a Holding Device. His holding device teaches a hook body that has access to a grip tab/loop (see abstract and figure 1).

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus satisfying the claimed structural limitations.

The patent to Seibert discloses a Gaming Table Cloth.

Seibert is used to show that the method of manufacture of tablecloths would determine the texture and intricacies of such. This detail or lack of would present little or no difficulty in the art. Stretchable materials are well known.

### ***Response to Arguments***

Applicant's arguments filed 2/28/2002 have been fully considered but they are not persuasive. Applicant argues, on page 2 of his response, that the placement of the Velcro (fastener members) on the cited reference is different from the claimed invention. Examiner's position is that the placement of the fastener system does not change its' intended functionality. It has been held that a recitation with respect to the manner in

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which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus satisfying the claimed structural limitations.

Applicant further argues that the reference to Schumann discloses a 'single' holding device while applicant discloses a 'series of hooks'. This presents a situation of mere duplication, which presents little or no difficulty in the art.

Further, the reference to Seibert is merely used to show that the method of manufacture of tablecloths would determine the texture and intricacies of such. This detail or lack of would present little or no difficulty in the art. Stretchable materials are well known.



***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kring, Ehrlich, Dougherty, Van Stratum, Figueroa, Walker, Conway et al., Schuman (404) & (864), Di Fronzo, Kweito et al., PirkI et al., Pacione, Brown and Hairston et al. are cited to show the state of art with respect to features of the claimed invention.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

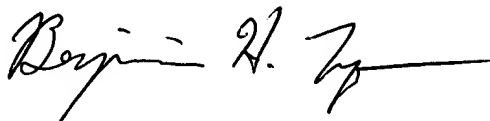
Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is **(703) 308-8352**. The examiner can normally be reached on 9:00 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **PAUL SEWELL** can be reached on **(703) 308-2126**. The fax phone numbers for the organization where this application or proceeding is assigned are **(703) 305-3579** for regular communications and **(703) 305-3579** for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703) 308-1148**.

  
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May 16, 2002



Benjamin H. Layno  
Primary Examiner